

REMARKS

Claims 45-88 are pending in the application but have been withdrawn by the Examiner. Examination of claims 45-88 is respectfully requested in light of the following remarks.

Section 121 Restriction:

The Examiner required restriction to one of the following two inventions as defined by the Examiner:

- I. Claims 1-44, are drawn to Distributed or remote access, classified in class 707, subclass 10.
- II. Claims 45-88, drawn to Network resource access controlling, classified in class 709, subclass 229.

The Examiner further stated that since Applicant "has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution of claims 1-44 on the merits. Accordingly, the Examiner considered Invention I to be elected and withdrew claims 45-88.

Applicants traverse the restriction requirement on the grounds that the Examiner has failed to state a proper requirement for restriction. According to M.P.E.P. § 808:

Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention *as claimed* is either independent or distinct from the other(s); and (B) the reasons why there would be a serious burden on the examiner if restriction is not required, i.e., the reasons for insisting upon restriction therebetween as set forth in the following sections. (underline emphasis added).

The Examiner has completely failed to even attempt to satisfy either of the requirements of M.P.E.P. § 808. Instead, the Examiner has done nothing more than make a "mere statement of conclusion" that restriction should be required. The Examiner has provided no reasons whatsoever as to why each invention as claimed is either independent or distinct from the other. Nor has the Examiner provided any reasons whatsoever as to why there would be a serious burden on the examiner if restriction is not required. It is

the Examiner who has the burden to state a proper restriction requirement. Applicants also note that both claim 1 and claim 45 pertain to operation for a "directory server."

Furthermore, in regard to the second requirement of M.P.E.P. § 808, if the Examiner's intention was to rely upon separate classifications to establish a serious burden, such reliance would be misplaced since the stated classifications are not separate or accurate. For example, the Examiner states that Invention I is classified as class 707, subclass 10 and that Invention II is classified as class 709, subclass 229. However, these classifications could both be applied to all of the claims. According to the Manual of Classification, the definition of class 707, subclass 10 is "management of distributed database data and file access and retrieval, and retrieval of database data and files from a centralized or remote site." The definition for class 709, subclass 229 is for "means or steps for controlling or limiting access by computers on a network to resources on the network." However, as would be readily apparent to anyone of ordinary skill in the art upon reading Applicants' disclosure, embodiments of both claims 1-44 and claims 45-88 can apply to both database/file access and access control to network resources. Therefore, the Examiner has not shown separate classifications. Note that both claim 1 and claim 45 recite operation for a "directory server." Since the purported classifications actually relate to all of the claims, the Examiner cannot rely upon these classifications to establish "a serious burden on the examiner if restriction is not required." See M.P.E.P. § 808.

In summary, since the Examiner has not even attempted to meet either one of the requirements of M.P.E.P. § 808 to establish a proper restriction requirement, the Examiner has not established all of the necessary elements of a *prima facie* restriction requirement. Therefore, the Examiner's restriction requirement must be withdrawn. Applicants note that embodiments for all of claims 1-88 refer to operation for a "directory server." Examination of pending claims 45-88 is respectfully requested.

CONCLUSION

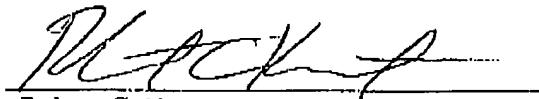
Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-06200/RCK.

Also enclosed herewith are the following items:

- Return Receipt Postcard
- Petition for Extension of Time
- Notice of Change of Address
- Other:

Respectfully submitted,



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